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UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 V.

14 FAZLIDDIN KURBANOV,

15 Defendant.

No. ED CR 17-00091-VAP

PLEA AGREEMENT FOR DEFENDANT
FAZLIDDIN KURBANOV

16
17
18 1. This constitutes the plea agreement between FAZLIDDIN
19 KURBANOV ("defendant") and the United States Attorney's Office for
20 the Central District of California (the "USAO") in the above-
21 captioned case. This agreement is limited to the USAO and cannot
22 bind any other federal, state, local, or foreign prosecuting,
23 enforcement, administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:

26 a. At the earliest opportunity requested by the USAO and
27 provided by the Court, appear and plead guilty to Count One of the
28 indictment in United States v. Fazliddin Kurbanov, ED CR No. 17-

1 00091-VAP, which charges defendant with Attempted Murder of a Federal
2 Officer, in violation of 18 U.S.C. §§ 1114(3), 1113.

3 b. Not contest facts agreed to in this agreement.

4 c. Abide by all agreements regarding sentencing contained
5 in this agreement.

6 d. Appear for all court appearances, surrender as ordered
7 for service of sentence, obey all conditions of any bond, and obey
8 any other ongoing court order in this matter.

9 e. Not commit any crime; however, offenses that would be
10 excluded for sentencing purposes under United States Sentencing
11 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
12 within the scope of this agreement.

13 f. Be truthful at all times with Pretrial Services, the
14 United States Probation Office, and the Court.

15 g. Pay the applicable special assessment at or before the
16 time of sentencing unless defendant lacks the ability to pay and
17 prior to sentencing submits a completed financial statement on a form
18 to be provided by the USAO.

19 h. Not seek the discharge of any restitution obligation,
20 in whole or in part, in any present or future bankruptcy proceeding.

21 THE USAO'S OBLIGATIONS

22 3. The USAO agrees to:

23 a. Not contest facts agreed to in this agreement.

24 b. Abide by all agreements regarding sentencing contained
25 in this agreement.

26 c. At the time of sentencing, move to dismiss the
27 remaining counts of the indictment as against defendant, which would
28 have otherwise subjected defendant to a total maximum sentence of 45

1 years instead of 20 years for the count to which defendant is
2 pleading guilty.¹ Defendant agrees, however, that at the time of
3 sentencing the Court may consider any dismissed charges in
4 determining the applicable Sentencing Guidelines range, the propriety
5 and extent of any departure from that range, and the sentence to be
6 imposed.

7 d. At the time of sentencing, provided that defendant
8 demonstrates an acceptance of responsibility for the offense up to
9 and including the time of sentencing, recommend a two-level reduction
10 in the applicable Sentencing Guidelines offense level, pursuant to
11 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
12 additional one-level reduction if available under that section.

13 e. Except for criminal tax violations (including
14 conspiracy to commit such violations chargeable under 18 U.S.C.
15 § 371), not further criminally prosecute defendant for violations
16 arising out of defendant's conduct on or about May 31, 2016.
17 Defendant understands that the USAO is free to criminally prosecute
18 defendant for any other unlawful past conduct or any unlawful conduct
19 that occurs after the date of this agreement. Defendant agrees that
20 at the time of sentencing the Court may consider the uncharged
21 conduct in determining the applicable Sentencing Guidelines range,
22 the propriety and extent of any departure from that range, and the .
23

24
25 ¹ Count Two (Assault on a Federal Officer with a Deadly or
26 Dangerous Weapon and which Inflicts Bodily Injury, in violation of 18
27 U.S.C. § 111(b)) carries a statutory maximum of 20 years'
28 imprisonment. Count Three (Possession by an Inmate of a Prohibited
Object Designed or Intended to Be Used as a Weapon, in violation of
18 U.S.C. §§ 1791(a)(2), (b)(3)) carries a statutory maximum of 5
years' imprisonment and the requirement that any sentence imposed for
this offense must run consecutive to the sentence being served by the
defendant at the time of the offense.

1 sentence to be imposed after consideration of the Sentencing
2 Guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

3 NATURE OF THE OFFENSE

4 4. Defendant understands that for defendant to be guilty of
5 the crime charged in Count One, that is, Attempted Murder of a
6 Federal Officer, in violation of Title 18, United States Code,
7 Sections 1114(3), 1113, the following must be true:

8 (1) Defendant did something that was a substantial
9 step toward killing victim C.J.;

10 (2) When defendant took that substantial step, defendant
11 intended to kill victim C.J.;

12 (3) Victim C.J. was a federal officer or employee of the
13 United States; and

14 (4) Defendant attempted to kill victim C.J. while he was
15 engaged in or on account of the performance of official duties.

16 PENALTIES AND RESTITUTION

17 5. Defendant understands that the statutory maximum sentence
18 that the Court can impose for a violation of Title 18, United States
19 Code, Sections 1114(3), 1113, is: 20 years' imprisonment; a lifetime
20 period of supervised release; a fine of \$250,000 or twice the gross
21 gain or gross loss resulting from the offense, whichever is greatest;
22 and a mandatory special assessment of \$100.

23 6. Defendant understands, therefore, that the total maximum
24 sentence for all offenses to which defendant is pleading guilty is:
25 20 years' imprisonment; a 3-year period of supervised release; a fine
26 of \$250,000 or twice the gross gain or gross loss resulting from the
27 offenses, whichever is greatest; and a mandatory special assessment
28 of \$100.

1 7. Defendant understands that defendant will be required to
2 pay full restitution to the victim(s) of the offense to which
3 defendant is pleading guilty. Defendant agrees that, in return for
4 the USAO's compliance with its obligations under this agreement, the
5 Court may order restitution to persons other than the victim(s) of
6 the offenses to which defendant is pleading guilty and in amounts
7 greater than those alleged in the count to which defendant is
8 pleading guilty. In particular, defendant agrees that the Court may
9 order restitution to any victim of any of the following for any
10 losses suffered by that victim as a result: (a) any relevant conduct,
11 as defined in U.S.S.G. § 1B1.3, in connection with the offense to
12 which defendant is pleading guilty; and (b) any counts dismissed
13 pursuant to this agreement as well as all relevant conduct, as
14 defined in U.S.S.G. § 1B1.3, in connection with those counts.

15 8. Defendant understands that supervised release is a period
16 of time following imprisonment during which defendant will be subject
17 to various restrictions and requirements. Defendant understands that
18 if defendant violates one or more of the conditions of any supervised
19 release imposed, defendant may be returned to prison for all or part
20 of the term of supervised release authorized by statute for the
21 offense that resulted in the term of supervised release.

22 9. Defendant understands that, by pleading guilty, defendant
23 may be giving up valuable government benefits and valuable civic
24 rights, such as the right to vote, the right to possess a firearm,
25 the right to hold office, and the right to serve on a jury.
26 Defendant understands that once the Court accepts defendant's guilty
27 plea, it will be a federal felony for defendant to possess a firearm
28 or ammunition. Defendant understands that the conviction in this

1 case may also subject defendant to various other collateral
2 consequences, including but not limited to, revocation of probation,
3 parole, or supervised release in another case and suspension or
4 revocation of a professional license. Defendant understands that
5 unanticipated collateral consequences will not serve as grounds to
6 withdraw defendant's guilty plea.

7 10. Defendant understands that, if defendant is not a United
8 States citizen, the felony conviction in this case may subject
9 defendant to: removal, also known as deportation, which may, under
10 some circumstances, be mandatory; denial of citizenship; and denial
11 of admission to the United States in the future. The Court cannot,
12 and defendant's attorney also may not be able to, advise defendant
13 fully regarding the immigration consequences of the felony conviction
14 in this case. Defendant understands that unexpected immigration
15 consequences will not serve as grounds to withdraw defendant's guilty
16 plea.

17 FACTUAL BASIS

18 11. Defendant admits that defendant is, in fact, guilty of the
19 offense to which defendant is agreeing to plead guilty. Defendant
20 and the USAO agree to the statement of facts provided below and agree
21 that this statement of facts is sufficient to support a plea of
22 guilty to the charge described in this agreement and to establish the
23 Sentencing Guidelines factors set forth in paragraph 13 below but is
24 not meant to be a complete recitation of all facts relevant to the
25 underlying criminal conduct or all facts known to either party that
26 relate to that conduct.

27 On May 31, 2016, defendant, an inmate at the
28 Victorville Federal Correctional Complex in the Central

1 District of California, attempted to murder victim C.J. at
2 one of the medium security facilities, specifically, FCI II
3 - Victorville. At the time of the attack, C.J. was the
4 warden at FCI II and standing in the dining facility near
5 the serving line to be accessible to inmates during the
6 lunch service. Defendant, armed with an approximately
7 four-inch homemade shank, approached C.J. from behind,
8 wrapped one arm around C.J.'s neck, and tried to slit
9 C.J.'s throat. After C.J. instinctively raised his hands
10 to protect his throat, defendant slashed the left side of
11 C.J.'s body from armpit to hip bone. C.J. required
12 approximately 80 staples to close the wound, resulting in a
13 permanent disfiguring scar and sharp pains most likely
14 caused by nerve damage.

15 In a subsequent Mirandized interview, defendant admitted,
16 among other things, that he specifically targeted C.J., that he
17 made the shank the week prior to the attack specifically to kill
18 C.J., that he had previously carried the shank in his shoe to
19 the recreation yard to test whether it would set off the metal
20 detector, that he concealed the shank in his right shoe on the
21 day of the attack, and that he tried to cut the main vein in
22 C.J.'s neck. Defendant also repeatedly admitted that he
23 intended to kill C.J.

24 SENTENCING FACTORS

25 12. Defendant understands that in determining defendant's
26 sentence the Court is required to calculate the applicable Sentencing
27 Guidelines range and to consider that range, possible departures
28 under the Sentencing Guidelines, and the other sentencing factors set

1 forth in 18 U.S.C. § 3553(a). Defendant understands that the
 2 Sentencing Guidelines are advisory only, that defendant cannot have
 3 any expectation of receiving a sentence within the calculated
 4 Sentencing Guidelines range, and that after considering the
 5 Sentencing Guidelines and the other § 3553(a) factors, the Court will
 6 be free to exercise its discretion to impose any sentence it finds
 7 appropriate up to the maximum set by statute for the crime of
 8 conviction.

9 13. Defendant and the USAO agree to the following applicable
 10 Sentencing Guidelines factors:

11	Base Offense Level:	33	[U.S.S.G. § 2A2.1(a)(1)]
12	Specific Offense		
13	Characteristics:		
14	Permanent Bodily Injury:	+4	[U.S.S.G. § 2A2.1(b)(1)(A)]
15	Official Victim:	+6	[U.S.S.G. § 3A1.2(c)(2)]
16	Acceptance of Responsibility:	-3	[U.S.S.G. §§ 3E1.1(a), (b)]
17	Total Offense Level:	40	

18 The USAO will agree to a two-level downward adjustment for acceptance
 19 of responsibility (and, if applicable, move for an additional one-
 20 level downward adjustment under U.S.S.G. § 3E1.1(b)) only if the
 21 conditions set forth in paragraph 3 are met and if defendant has not
 22 committed, and refrains from committing, acts constituting
 23 obstruction of justice within the meaning of U.S.S.G. § 3C1.1, as
 24 discussed below. Subject to paragraph 26 below, defendant and the
 25 USAO agree not to seek, argue, or suggest in any way, either orally
 26 or in writing, that any other specific offense characteristics,
 27 adjustments, or departures relating to the offense level be imposed.
 28 Defendant agrees, however, that if, after signing this agreement but

1 prior to sentencing, defendant were to commit an act, or the USAO
2 were to discover a previously undiscovered act committed by defendant
3 prior to signing this agreement, which act, in the judgment of the
4 USAO, constituted obstruction of justice within the meaning of
5 U.S.S.G. § 3C1.1, the USAO would be free to seek the enhancement set
6 forth in that section and to argue that defendant is not entitled to
7 a downward adjustment for acceptance of responsibility under U.S.S.G.
8 § 3E1.1. Defendant understands that defendant's offense level could
9 be increased if defendant is a career offender under U.S.S.G.
10 §§ 4B1.1 and 4B1.2. If defendant's offense level is so altered,
11 defendant and the USAO will not be bound by the agreement to
12 Sentencing Guideline factors set forth above.

13 14. Defendant understands that there is no agreement as to
14 defendant's criminal history or criminal history category.

15 15. With respect to Count One, defendant and the USAO agree
16 that, taking into account the factors listed in 18 U.S.C.
17 § 3553(a)(1)-(7), and the relevant Sentencing Guidelines factors set
18 forth above, an appropriate disposition of this case is that the
19 Court impose a sentence of: at least 15 years' imprisonment to run
20 consecutive to the term of imprisonment already imposed in United
21 States v. Kurbanov, 1:13-CR-00120-EJL-01, in the District of Idaho,
22 with defendant and the USAO reserving the right to argue for
23 concurrent versus consecutive time for the remaining 5 years of the
24 20-year statutory maximum for the offense of conviction. The parties
25 make no agreement as to the amount of restitution, but defendant
26 understands that he will be required to pay full restitution to the
27 victim(s) of the offense to which defendant is pleading guilty. The
28 parties also agree that no prior imprisonment (other than credits

1 that the Bureau of Prisons may allow under 18 U.S.C. § 3585(b)) may
2 be credited against this stipulated sentence, including credit under
3 Sentencing Guideline § 5G1.3.

4 WAIVER OF CONSTITUTIONAL RIGHTS

5 16. Defendant understands that by pleading guilty, defendant
6 gives up the following rights:

7 a. The right to persist in a plea of not guilty.

8 b. The right to a speedy and public trial by jury.

9 c. The right to be represented by counsel -- and if
10 necessary have the Court appoint counsel -- at trial. Defendant
11 understands, however, that, defendant retains the right to be
12 represented by counsel -- and if necessary have the Court appoint
13 counsel -- at every other stage of the proceeding.

14 d. The right to be presumed innocent and to have the
15 burden of proof placed on the government to prove defendant guilty
16 beyond a reasonable doubt.

17 e. The right to confront and cross-examine witnesses
18 against defendant.

19 f. The right to testify and to present evidence in
20 opposition to the charges, including the right to compel the
21 attendance of witnesses to testify.

22 g. The right not to be compelled to testify, and, if
23 defendant chose not to testify or present evidence, to have that
24 choice not be used against defendant.

25 h. Any and all rights to pursue any affirmative defenses,
26 Fourth Amendment or Fifth Amendment claims, and other pretrial
27 motions that have been filed or could be filed.

28

WAIVER OF APPEAL OF CONVICTION

17. Defendant understands that, with the exception of an appeal based on a claim that defendant's guilty plea was involuntary, by pleading guilty defendant is waiving and giving up any right to appeal defendant's conviction on the offense to which defendant is pleading guilty.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

18. Defendant agrees that, provided the Court imposes a total term of imprisonment on all counts of conviction of no more than 20 years, defendant gives up the right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the Court, provided it is within the statutory maximum; (d) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (e) any of the following conditions of probation or supervised release imposed by the Court: the conditions set forth in General Orders 318, 01-05, and/or 05-02 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

19. The USAO agrees that, provided (a) all portions of the sentence are at or below the statutory maximum specified above and (b) the Court imposes a term of imprisonment of no less than 20 years, the USAO gives up its right to appeal any portion of the sentence, with the exception that the USAO reserves the right to appeal the amount and terms of any restitution order.

1 RESULT OF WITHDRAWAL OF GUILTY PLEA

2 20. Defendant agrees that if, after entering a guilty plea
3 pursuant to this agreement, defendant seeks to withdraw and succeeds
4 in withdrawing defendant's guilty plea on any basis other than a
5 claim and finding that entry into this plea agreement was
6 involuntary, then (a) the USAO will be relieved of all of its
7 obligations under this agreement; and (b) should the USAO choose to
8 pursue any charge that was either dismissed or not filed as a result
9 of this agreement, then (i) any applicable statute of limitations
10 will be tolled between the date of defendant's signing of this
11 agreement and the filing commencing any such action; and
12 (ii) defendant waives and gives up all defenses based on the statute
13 of limitations, any claim of pre-indictment delay, or any speedy
14 trial claim with respect to any such action, except to the extent
15 that such defenses existed as of the date of defendant's signing this
16 agreement.

17 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

18 21. Defendant agrees that if the count of conviction is
19 vacated, reversed, or set aside, or any of the enhancements imposed
20 by the Court to which the parties stipulated in this agreement is
21 vacated or set aside, both the USAO and defendant will be released
22 from all their obligations under this agreement.

23 EFFECTIVE DATE OF AGREEMENT

24 22. This agreement is effective upon signature and execution of
25 all required certifications by defendant, defendant's counsel, and an
26 Assistant United States Attorney.

BREACH OF AGREEMENT

23. Defendant agrees that if defendant, at any time after the signature of this agreement and execution of all required certifications by defendant, defendant's counsel, and an Assistant United States Attorney, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then: (a) if defendant has previously entered a guilty plea pursuant to this agreement, defendant will not be able to withdraw the guilty plea, and (b) the USAO will be relieved of all its obligations under this agreement.

24. Following the Court's finding of a knowing breach of this agreement by defendant, should the USAO choose to pursue any charge that was either dismissed or not filed as a result of this agreement, then:

a. Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the filing commencing any such action.

b. Defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement.

1 c. Defendant agrees that: (i) any statements made by
2 defendant, under oath, at the guilty plea hearing (if such a hearing
3 occurred prior to the breach); (ii) the agreed to factual basis
4 statement in this agreement; and (iii) any evidence derived from such
5 statements, shall be admissible against defendant in any such action
6 against defendant, and defendant waives and gives up any claim under
7 the United States Constitution, any statute, Rule 410 of the Federal
8 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
9 Procedure, or any other federal rule, that the statements or any
10 evidence derived from the statements should be suppressed or are
11 inadmissible.

12 COURT AND PROBATION OFFICE NOT PARTIES

13 25. Defendant understands that the Court and the United States
14 Probation Office are not parties to this agreement and need not
15 accept any of the USAO's sentencing recommendations or the parties'
16 agreements to facts or sentencing factors.

17 26. Defendant understands that both defendant and the USAO are
18 free to: (a) supplement the facts by supplying relevant information
19 to the United States Probation Office and the Court, (b) correct any
20 and all factual misstatements relating to the Court's Sentencing
21 Guidelines calculations and determination of sentence, and (c) argue
22 on appeal and collateral review that the Court's Sentencing
23 Guidelines calculations and the sentence it chooses to impose are not
24 error, although each party agrees to maintain its view that the
25 calculations in paragraph 13 are consistent with the facts of this
26 case. While this paragraph permits both the USAO and defendant to
27 submit full and complete factual information to the United States
28 Probation Office and the Court, even if that factual information may

1 be viewed as inconsistent with the facts agreed to in this agreement,
2 this paragraph does not affect defendant's and the USAO's obligations
3 not to contest the facts agreed to in this agreement.

4 27. Defendant understands that even if the Court ignores any
5 sentencing recommendation, finds facts or reaches conclusions
6 different from those agreed to, and/or imposes any sentence up to the
7 maximum established by statute, defendant cannot, for that reason,
8 withdraw defendant's guilty pleas, and defendant will remain bound to
9 fulfill all defendant's obligations under this agreement. Defendant
10 understands that no one -- not the prosecutor, defendant's attorney,
11 or the Court -- can make a binding prediction or promise regarding
12 the sentence defendant will receive, except that it will be within
13 the statutory maximum.

14 NO ADDITIONAL AGREEMENTS

15 28. Defendant understands that, except as set forth herein,
16 there are no promises, understandings, or agreements between the USAO
17 and defendant or defendant's attorney, and that no additional
18 promise, understanding, or agreement may be entered into unless in a
19 writing signed by all parties or on the record in court.

20 ///

21 ///

22 ///


PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

29. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

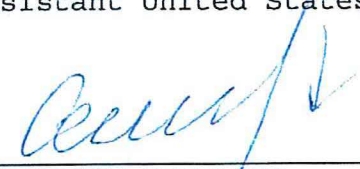
AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA


NICOLA T. HANNA
United States Attorney


ELIZABETH R. YANG
Assistant United States Attorney

3/8/2018
Date


FAZLIDDIN KURBANOV
Defendant

6/3/2018
Date

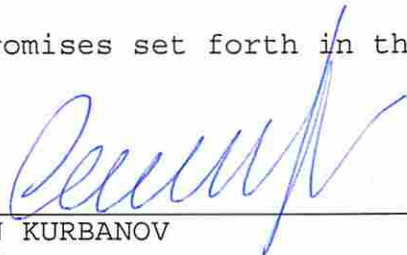

HILARY POTASHNER
Federal Public Defender
DEBORAH GONZALEZ
Deputy Federal Public Defender
Attorneys for Defendant
FAZLIDDIN KURBANOV

3/6/18
Date

CERTIFICATION OF DEFENDANT

[PLEASE SELECT ONE: ~~{I have read this agreement in its entirety.}~~ [This agreement has been read to me in Russian, the language I understand best.]] I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have

discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.


 FAZLIDDIN KURBANOV
 Defendant

6/3/2018
 Date

[TO BE COMPLETED IF DEFENDANT DOES NOT SPEAK ENGLISH
 FLUENTLY.]

CERTIFICATION OF INTERPRETER


I, Zoya Spivakovsky, am fluent in the written and spoken English and Russian languages. I accurately translated this entire agreement from English into Russian to defendant FAZLIDDIN KURBANOV on this date.


 INTERPRETER

3/6/2018
 Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am FAZLIDDIN KURBANOV's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.



HILARY POTASHNER
Federal Public Defender
DEBORAH GONZALEZ
Deputy Federal Public Defender

Attorneys for Defendant
FAZLIDDIN KURBANOV

3/4/18

Date